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| 10/612,605      | 06/30/2003  | Ira Farnoush         |                     | 4846             |

7590 02/06/2006

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EXAMINER

BALSIS, SHAY L

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
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1744

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/612,605

Applicant(s)

FARNOUSH ET AL.

Examiner

Shay L. Balsis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 9-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 12-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION*****Election/Restrictions***

Applicant's election with traverse of claims 1-8 and 12 in the reply filed on 12/20/05 is acknowledged. The traversal is on the ground(s) that the limitations of claim 1 and 9 are very closely related and that the restriction requirement would only duplicate efforts on the part of the applicant and on the part of the USPTO. This is not found persuasive because claims 1, 12 and new claim 16 all teach the limitation of a closure means and closing the container. The method of claim 9 fails to teach using a closing means or actually closing the container at all. Therefore, the method is done without closing the container and all the apparatus claims require a closing means.

Applicant argues that claims 13-15 are pure apparatus claims and therefore should not have been grouped with claim 9. Examiner would like to point out that claims 13-15 are dependent from claim 9, and therefore would have been grouped with that independent claim in the restriction requirement. It appears that the applicant wanted claims 13-15 to be dependent from the claim 12 and therefore, the examiner is examining the claims as if they were dependent from claim 12. Claims 9-11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention. Applicant must correct the dependency issue with regards to claims 13-15 in the next office action, otherwise they will be withdrawn from consideration since they currently are dependent from a withdrawn claim.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8, 12-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the solvent" in part d, line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the openable portion" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "the paint brush" in part c, line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "said chamber" in part c, lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claims 13-15 are rejected to under 112, 2<sup>nd</sup> paragraph since, they are dependent from a withdrawn claim (claim 9). Claims 13-15 are apparatus claims and the claim they depend from is a method claim. It appears that claims 13-15 should be dependent from claim 12. Therefore, for purposes of examination claims 13-15 are being treated as though they depend from claim 12 and applicant is asked to correct this dependency issue in the next office action.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 7-8, 12-14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Hakker (USPN 5687444).

With regards to claim 1, Hakker teaches a housing (12) having an exterior wall forming an enclosing interior chamber. There is a closure means (figure 6, top 12 is closure and bottom 12 is housing) for obtaining access to the interior chamber when opened. There is a cleaning means (2) in the housing having an irregular surface pattern allowing brushes to be rubbed thereagainst and thereby aid in the cleaning of a brush. The container can be closed after cleaning of the brush to preclude excessive evaporation of a solvent (col. 2, lines 36-43). With regards to claim 2, the interior chamber of the container has a bottom section which is adapted to receive a solvent (col. 2, lines 36-43). With regards to claim 7, there is further a means (14) for holding the cleaned brushes in suspended condition in the interior chamber. With regards to claim 8, the means for holding the brushes is a hook means (15). With regards to claim 12, there is means for introducing a coating brush into a solvent located in a solvent reservoir. There is a cleaning member (2) for enabling the rubbing of the brush against an irregular surface pattern shortly after the introduction of the brush into the solvent. There is a means for hanging (14) the brush in a suspended condition in the container after cleaning. The container is then closed. With regards to claim 13, there is a lid means (figure 6, top 12 is cover and bottom 12 is

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container) so to close the container. With regards to claim 14, the brushes are suspended from an interior chamber of the container. With regards to claim 16, there is a housing (12) having an exterior wall forming an enclosing interior chamber having a reservoir of solvent. There is a closure means (figure 6, top 12 is closure and bottom 12 is housing) for obtaining access to the interior chamber when opened. There is a cleaning means (2) in the housing having an irregular surface pattern allowing brushes to be rubbed thereagainst and thereby aid in the cleaning of a brush. There is further a means (14) for holding the cleaned brushes in suspended condition in the interior chamber and the container can be closed after cleaning of the brush.

Claims 1-3, 5-7 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Cook (USPN 1285948).

With regards to claim 1, Cook teaches a housing (a) having an exterior wall forming an enclosing interior chamber. There is a closure means (b) for obtaining access to the interior chamber when opened. There is a cleaning means (e) in the housing having an irregular surface pattern allowing brushes to be rubbed thereagainst and thereby aid in the cleaning of a brush. The container can be closed after cleaning of the brush to preclude excessive evaporation of a solvent. With regards to claim 2, the interior chamber of the container has a bottom section which is adapted to receive a solvent (l). With regards to claim 3, the cleaning means comprises a plate extending generally horizontally with the housing and had an upper irregular surface thereon (figure 1). With regards to claim 5, the container has a bottom reservoir adapted to contain a solvent (l) for cleaning a brush and the cleaning means is a plate with an irregular surface effect suspended in the solvent (figure 1). With regards to claim 6, there is a handle (figure 1, not labeled) for carrying the container. With regards to claim 7, there is further a

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means (g) for holding the cleaned brushes in suspended condition in the interior chamber. With regards to claim 16, there is a housing (a) having an exterior wall forming an enclosing interior chamber having a reservoir of solvent (l). There is a closure means (b) for obtaining access to the interior chamber when opened. There is a cleaning means (e) in the housing having an irregular surface pattern allowing brushes to be rubbed thereagainst and thereby aid in the cleaning of a brush. There is further a means (g) for holding the cleaned brushes in suspended condition in the interior chamber and the container can be closed after cleaning of the brush.

Claims 1-2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Hocking (USPN 5645165).

With regards to claim 1, Hocking teaches a housing (2) having an exterior wall forming an enclosing interior chamber. There is a closure means (1) for obtaining access to the interior chamber when opened. There is a cleaning means (27) in the housing having an irregular surface pattern allowing brushes to be rubbed thereagainst and thereby aid in the cleaning of a brush. The container can be closed after cleaning of the brush to preclude excessive evaporation of a solvent. With regards to claim 2, the interior chamber of the container has a bottom section which is adapted to receive a solvent. With regards to claim 4, the closure means comprises a lid section that is hingeably (18) attached to the container.

Claims 1-2, 5-7, 12-15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Leiter (USPN 4771501).

With regards to claim 1, Leiter teaches a housing (8) having an exterior wall forming an enclosing interior chamber. There is a closure means (4) for obtaining access to the interior chamber when opened. There is a cleaning means (30) in the housing having an irregular surface

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pattern allowing brushes to be rubbed thereagainst and thereby aid in the cleaning of a brush.

The container can be closed after cleaning of the brush to preclude excessive evaporation of a solvent. With regards to claim 2, the interior chamber of the container has a bottom section which is adapted to receive a solvent (42). With regards to claim 5, the container has a bottom reservoir adapted to contain a solvent (42) for cleaning a brush and the cleaning means is a plate(30) with an irregular surface effect (36, 44) suspended in the solvent. With regards to claim 6, there is a handle (18) for carrying the container. With regards to claim 7, there is further a means (34) for holding the cleaned brushes in suspended condition in the interior chamber. With regards to claim 12, there is means for introducing a coating brush into a solvent located in a solvent reservoir. There is a cleaning member (30) for enabling the rubbing of the brush against an irregular surface pattern (36, 44) shortly after the introduction of the brush into the solvent. There is a means for hanging (34) the brush in a suspended condition in the container after cleaning. The container is then closed. With regards to claim 13, there is a lid means (4) so to close the container. With regards to claim 14, the brush is suspended from an interior chamber of the container. With regards to claim 16, there is a housing (8) having an exterior wall forming an enclosing interior chamber having a reservoir of solvent (42). There is a closure means (4) for obtaining access to the interior chamber when opened. There is a cleaning means (30) in the housing having an irregular surface pattern allowing brushes to be rubbed thereagainst and thereby aid in the cleaning of a brush. There is further a means (34) for holding the cleaned brushes in suspended condition in the interior chamber and the container can be closed after cleaning of the brush.



***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hakker (USPN 5687444) in view of Kessler (USPN 1813670).

Hakker teaches all the essential elements of the claimed invention however fails to teach that the cleaning means comprises a plate. Kessler teaches a cleaning means comprising a plate which can be situated generally horizontal within the housing (figure 3). It would have been obvious to modify Hakker so that the cleaning means is in the form of a plate separate from the housing as taught by Kessler so that it can be removed from the pan and cleaned separately when necessary (page 2, lines 32-34).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leiter (USPN 4771501) in view of Yenne (USPN 2646808).

Leiter teaches all the essential elements of the claimed invention however fails to teach that the cover is hingeably attached to the container. Yenne teaches a paintbrush container having cleaning fluid stored therein. The lid of the container is hinged to the container. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Leiter's lid with a hinge as taught by Yenne. Both lids, hinged or not, are equivalent structures known in the art. Therefore, because these two closure means were art-recognized

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equivalents at the time of the invention was made, one of ordinary skill in the art would have found it obvious to substitute a hinged lid for a non- hinged lid.

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L. Balsis whose telephone number is 571-272-1268. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Slb  
1/26/06



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